



Voices from the Rwanda Tribunal

Official Transcript: Beth Lyons (Part 4 of 13)



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| Role: | Defense Counsel |
| Country of Origin: | United States |
| Interview Date: | 3 November 2008 |
| Location: | Arusha, Tanzania |
| Interviewers: | Batya Friedman Ronald Slye |
| Videographer: | Max Andrews |
| Interpreter: | None |

Interview Summary

Beth Lyons highlights the importance of a fair trial for all. She discusses the politicization of ICTR prosecutions, particularly the failure to investigate war crimes committed by the Rwandan Patriotic Front (RPF). She states she has found no evidence of a plan to commit genocide by those accused by the Tribunal, which she views as a key difference between the events in Rwanda and the Holocaust. Lyons reflects on the inequity of resources between the prosecution and defense.

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Part 4

- 00:00 **Batya Friedman: So if you were to, in the situation of helping to craft the, the mandates and the, the structures and interactions for a future tribunal in some other situation . . .**
- 00:11 Yeah.
- 00:12 **BF: . . . based on this experience that you've had here, what would you put in place to, to help to mitigate this kind of issue in the future?**
- 00:23 Okay, I don't think that this kind of issue can be mitigated by structure, number one. Number two, I think it's a political issue and I think that it's, it can't be, you know, it, it can't be, be changed.
- 00:38 We, it – the problem is not the mandate. The mandate was to prosecute both sides for the crimes during 1994 and also, I, you know it's, it's a, it's, you know there, there was, there were independent commissions that were sent by the UN, there's the Gersony report.
- 00:52 I mean there's a plethora of documentation to support the crimes and crimes committed also against the Hutu population and massacres. And, you know, I won't go into all the details now because I can't recite them at this, this second, but they're all there and there's, and it, it's public information.
- 01:12 And it's just astounding to me too that, you know, here you have two heads of state killed in a, you know, you know, shot down by the RPF and there's nev-, there's no investigation, you know.
- 01:23 This is the other piece of it, right? Well, I'll get into that in a second. But I really think that the, it means that, you know, the, the mandates of the UN have to be implemented and monitored very, very strictly and I think also that, that the rule of international law simply has to be respected.
- 01:49 There were separate problems of the lack of fair trial in Rwanda, et cetera which I will get into later but – dealing with international law – but it just seems to me that the situation is, is such that the object of the SC resolution supporting the ICTR and IC-, establishing ICTR and ICTY to get to the truth of what happened and achieve reconciliation can never be achieved, because what is happening certainly here is only part of the story.
- 02:26 **BF: So I just want to revisit the comment . . .**
- 02:27 Yeah.
- 02:28 **BF: . . . you made that, that it's not a question of structure.**
- 02:32 Right.

- 02:32** BF: Can you explain why you see that changes to structure would not be able to, to be helpful here . . .
- 02:41 () . . .
- 02:42** BF: . . . and how you see this as largely a political . . .
- 02:45 Okay.
- 02:46** BF: . . . or what interaction you see between, checks and balances between what's political and what exists in structure?
- 02:53 Alright, I think that you know, that here, I mean, actually, the wording if, if you go back to SC 955, there isn't a problem with the wording. If you go back to the ICTR statute, which I don't have, there isn't a problem with the wording, all right. If you go, if you go to the Rules of Procedure and Evidence, yes I have problems with some of the wordings and rules but basically there is a structure.
- 03:20 The question is the implementation of these. I mean, when, when, when 955, when SC 955 was being discussed and decided, I mean the one country that objected to it was Rwanda at that time, right? And they had non-permanent. They were one of the non-permanent parties.
- 03:43 We keep in mind that Rwanda until recently, you know had the death penalty and executed over the last few years number of individuals. The de jure death penalty has been abolished but de facto death penalty, I'm not so convinced, you know, having heard witnesses, having been to Rwanda myself a number of times, et cetera.
- 04:09 But I think that it's not, it isn't a structural problem. It has to do with political will and I think the other piece of it has to do with the, the independence and respect for the rule of law in the judiciary. I mean, I believe the judiciary here make every effort to be impartial and independent. I think the battle is an uphill battle in terms of, in terms of the workings here.
- 04:40 It's an uphill battle and I think that the problem is that there isn't respect by all state parties but particularly Rwanda of the independence of the legis-, judic-, (____), independence of judicial process here. I mean, for this tribunal to be effective, there has to be respect for that and I think that the, you know, the examples that I cited of, you know, the problem of, of, of allow-, of, of Rwanda allowing witnesses to come here is just one problem. You know?
- 05:23 A number of decisions in cases talk about witness intimidation. You simply have to do a search on, on Westlaw – "witness intimidation" – you'll get a sense of the problems that witnesses encounter so that individuals are not necessarily quote "free" to come to Arusha.

05:48 And it makes it very difficult I think for a judicial body that's tasked with finding the truth and wants to hear from as many, you know, many witnesses as possible on, on, on the issues that it, it is dealing with. Makes it very difficult to function and makes it difficult particularly for defense counsel.